S.B.CIVIL WRIT PETITION NO. 1096/2001

Date of order: 4.8.2004

HON'BLE MR. JUSTICE N.P.GUPTA

Mr. P.P.Choudhary, for the petitioner.
Mr. Ajay Vyas, for Mr. B.K.Vyas, for the respondent no. 5 to 12.
Mr. S.N.Tiwari, Dy.G.A.

By this writ petition, the petitioner seeks to assail the order Annexure-11 passed by the Board of Revenue.

The main ground of the challenge to the order is that the petitioners had purchased the land from the private respondents no. 5 to 13 by registered sale deed dt. 7.5.1993, and the land was mutated in their name which according to the petitioner must have been permitted after the permission of the Collector, and therefore, on that basis their name was recorded in the Khasra Girdwari also, and therefore, it was well within the knowledge of the Tehsildar that the land has been transferred to the petitioners, and therefore, they were necessary parties, and they were required to be impleaded as party in the second appeal, and non-impleadment of petitioner has prejudicially affected their legal right. The other objection raised is that out of the land in question 9 Bigha of land was recorded in the name of Housing Board which fact was informed by the Tehsildar while similar treatment was not given to the petitioners.

I have considered the submissions and have gone through the order Annexure-11.

In para-7 of the order all that has been ordered by the Board of Revenue is that the matter has been remanded back to the Assistant Collector, Bikaner with a direction to hear all parties in accordance with the provisions of Rule 55 of the Revenue Courts Manual part-II, and after considering all land records, justified and proper order be passed.

In my view, from the above facts, it is clear that the petitioner is transferee pendente lite and his rights are governed by the provisions of Section 52 of the Transfer Property Act. In that view of the matter, when the Revenue Board has only remanded the matter to the Assistant Collector, obviously, the petitioner who steps into the shoes of the present respondents no. 5 to 13 would obviously be heard. Thus, the impugned order does not occasion any prejudice whatever to the petitioners so as to require any interference.

The writ petition is, therefore, dismissed summarily.

(N.P.GUPTA), J.